

Dated: June 15, 2017

The following is ORDERED:



A handwritten signature in black ink, reading "Tom R. Cornish", is written over a horizontal line.

TOM R. CORNISH  
UNITED STATES BANKRUPTCY JUDGE

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**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF OKLAHOMA**

IN RE:

**NORMA JEAN PRINCE**

Case No. 16-80978-TRC  
Chapter 7

Debtor.

**JIMMY JAMES**

Plaintiff,

vs.

Adv. No. 16-8026-TRC

**NORMA JEAN PRINCE**

Defendant.

**ORDER**

Before the Court is the Application for Attorney's Fees and Costs filed by the Plaintiff on March 24, 2017 (Docket Entry 17). After review, this Court finds that an award of costs to Plaintiff as prevailing party is appropriate, but declines to award attorney fees.

Fed. R. Bankr. P. 7054 allows an award of costs to the prevailing party. Costs of \$355.37

have been requested and this Court finds them to be appropriate in this case. However, Plaintiff presents no authority supporting an award of attorney fees in his action under 11 U.S.C. § 523. Conceding that no statutory authorization exists to support an award of attorney fees, Plaintiff appeals to this Court's equitable authority and suggests that this Court could award attorney fees as costs. The Court declines to do so, even though the Order of Default, prepared and submitted by Plaintiff, suggests attorney fees will be awarded upon filing an application.

An award of attorney fees is discretionary with the Court. In considering whether to award attorney fees as part of its equitable powers, a bankruptcy court must exercise restraint and only award fees in exceptional circumstances. *See In re Roco Corp.*, 37 B.R. 770, 775 (Bankr. D. R.I. 1984). This case does not qualify. Plaintiff cites no exceptional circumstances that demand redress and justify an award of attorney fees as costs. This was a default judgment resulting from Defendant's inaction, requiring a minimal expenditure of time. No evidence was taken and no assessment of Defendant's conduct was made on the merits. Therefore, the Court finds no circumstances justifying the award of attorney fees as costs in this case.

IT IS THEREFORE ORDERED that the Application for Attorney's Fees and Costs filed by the Plaintiff (Docket Entry 17) is hereby **granted in part and denied in part. Plaintiff is awarded \$355.37 in costs, and \$0 for attorney fees.**

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